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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

HARVENIA BRYANT-JACKSON,

Plaintiff,

v.

CONTRA COSTA REGIONAL MEDICAL  
CENTER AUXILIARY,

Defendant.

Case No. 17-cv-02204-JCS

**ORDER DISMISSING PLAINTIFF'S  
HIPAA CLAIM WITH PREJUDICE,  
REMANDING ACTION TO STATE  
COURT, AND VACATING MOTION  
HEARING**

Re: Dkt. No. 6

**I. INTRODUCTION**

On March 8, 2017 Plaintiff Harvenia Bryant-Jackson, pro se, filed this action in the Superior Court of California for the County of Contra Costa, case number C17-00456, against Defendant Contra Costa Regional Medical Center Auxiliary<sup>1</sup> ("CCRMCA"). Bryant-Jackson asserted a violation of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), a violation of Bryant-Jackson's civil rights, and "identity theft of [Bryant-Jackson's] personal property." On April 20, 2017 CCRMCA removed the case to this Court based on federal question and civil rights jurisdiction and now moves to dismiss. Bryant-Jackson did not file a timely opposition. All parties have consented to the jurisdiction of the undersigned magistrate judge for all purposes pursuant to 28 U.S.C. § 636(c). The Court held a hearing on June 30, 2017, at which Bryant-Jackson did not appear.

For the reasons discussed below, the Court GRANTS IN PART CCRMCA's motion, DISMISSING WITH PREJUDICE Bryant-Jackson's HIPAA claim to the extent HIPAA's lack of a private right of action constitutes an incurable defect as to that claim in federal court. Lacking subject matter jurisdiction over the remaining claims, the Court REMANDS this action sua sponte

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<sup>1</sup> Defendant notes that the Notice of Removal was erroneously filed on behalf of Contra Costa County, and requests the Court disregard language in the Notice of Removal stating Defendant was "erroneously sued as Contra Costa Regional Medical Center Auxiliary." Notice of Removal (dkt. 1) at 1.

1 to the Superior Court of California for the County of Contra Costa.

2 **II. ANALYSIS**

3 **A. Legal Standard for Motions to Dismiss**

4 A complaint may be dismissed for failure to state a claim on which relief can be granted  
5 under Rule 12(b)(6) of the Federal Rules of Civil Procedure. “The purpose of a motion to dismiss  
6 under Rule 12(b)(6) is to test the legal sufficiency of the complaint.” *N. Star Int’l v. Ariz. Corp.  
Comm’n*, 720 F.2d 578, 581 (9th Cir. 1983). Generally, a claimant’s burden at the pleading stage  
7 is relatively light. Rule 8(a) of the Federal Rules of Civil Procedure states that “[a] pleading  
8 which sets forth a claim for relief . . . shall contain . . . a short and plain statement of the claim  
9 showing that the pleader is entitled to relief.” Fed. R. Civ. P. 8(a). In ruling on a motion to  
10 dismiss under Rule 12(b)(6), the court analyzes the pleading and takes “all allegations of material  
11 fact as true and construe[s] them in the light most favorable to the non-moving party.” *Parks Sch.  
of Bus. v. Symington*, 51 F.3d 1480, 1484 (9th Cir. 1995). Dismissal may be based on a lack of a  
12 cognizable legal theory or on the absence of facts that would support a valid theory. *Balistreri v.  
Pacifica Police Dep’t*, 901 F.2d 696, 699 (9th Cir. 1990).

16 **1. Bryant-Jackson’s HIPAA Claim Is Not Cognizable**

17 Bryant-Jackson asserts that CCRMCA violated HIPAA by disclosing to the Concord  
18 Police Department that she had previously been held involuntarily by CCRMCA’s psychiatric  
19 ward. Compl. (dkt. 1-1) at 6, 16. However, HIPAA provides no private right of action. *Webb. v.  
Smart Document Solutions, LLC*, 499 F.3d 1078, 1080 (9th Cir. 2007). While HIPAA’s  
20 requirements may in some circumstances be used to bring claims under relevant state law, a  
21 plaintiff cannot assert a claim based solely on a violation of HIPAA. *Amatrone v. Champion*, No.  
22 15-cv-01356-JST, 2016 WL 641636, at \*4 (N.D. Cal. Feb. 18, 2016) (citing *Webb. v. Smart  
Document Solutions, LLC*, 499 F.3d 1078, 1082 (9th Cir. 2007)). Therefore, the Court concludes  
23 that Bryant-Jackson has not asserted a cognizable claim under HIPAA. As HIPAA’s lack of a  
24 private right of action precludes the possibility of Bryant-Jackson amending this claim to bring it  
25 within federal jurisdiction, the Court finds it incurably defective and dismisses it with prejudice.  
26 See *Cato v. United States*, 70 F.3d 1103, 1105–06 (9th Cir. 1995). In doing so, the Court does not

1 reach whether the Complaint could be construed as stating a HIPAA-related claim within the  
2 jurisdiction of a California state court.

3           **B. Legal Standard for Subject Matter Jurisdiction**

4           Federal courts have limited subject matter jurisdiction and may only hear cases falling  
5 within their jurisdiction. Generally, a defendant may remove a civil action filed in state court if  
6 the action could have been filed originally in federal court. 28 U.S.C. § 1441. The removal  
7 statutes are construed restrictively so as to limit removal jurisdiction. *Shamrock Oil & Gas Corp.*  
8 *v. Sheets*, 313 U.S. 100, 108–09 (1941). The Ninth Circuit recognizes a “strong presumption  
9 against removal.” *Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir. 1992) (internal quotation marks  
10 omitted). Any doubts as to removability should be resolved in favor of remand. *Matheson v.*  
11 *Progressive Specialty Ins. Co.*, 319 F.3d 1089, 1090 (9th Cir. 2003). The defendant bears the  
12 burden of showing that removal is proper. *Valdez v. Allstate Ins. Co.*, 372 F.3d 1115, 1117 (9th  
13 Cir. 2004). A district court may remand a case to state court *sua sponte* if it determines that  
14 jurisdiction is lacking. 28 U.S.C. § 1447(c); *see Smith v. Mylan, Inc.*, 761 F.3d 1042, 1043 (9th  
15 Cir. 2014).

16           District courts have jurisdiction—commonly known as “federal question” jurisdiction—  
17 over “all civil actions arising under the Constitution, laws, or treaties of the United States.” 28  
18 U.S.C. § 1331. “The presence or absence of federal-question jurisdiction is governed by the ‘well-  
19 pleaded complaint rule,’ which provides that federal jurisdiction exists only when a federal  
20 question is presented on the face of the plaintiff’s properly pleaded complaint.” *Caterpillar Inc. v.*  
21 *Williams*, 482 U.S. 386, 392 (1987). “When a claim can be supported by alternative and  
22 independent theories—one of which is a state law theory and one of which is a federal law  
23 theory—federal question jurisdiction does not attach because federal law is not a necessary  
24 element of the claim.” *Rains v. Criterion Sys., Inc.*, 80 F.3d 339, 347 (9th Cir. 1996).

25           **1. The Court Lacks Jurisdiction Over Bryant-Jackson’s Other Claims**

26           CCRMCA’s stated basis for removal is as follows:

27           This action is a civil action over which this Court has original  
28 jurisdiction under 28 U.S.C. sections 1331 and 1343, and is one  
which may be removed to this Court by Defendant pursuant to 28

1 U.S.C. section 1441(a), in that Plaintiff through her own complaint  
2 alleges claims against Defendant under [HIPAA], 45 C.F.R. section  
3 160.103, et seq. Plaintiff also alleges a “Civil Rights Violation”  
4 without identifying whether the source of the rights is federal or  
state law, so to the extent Plaintiff alleges a state law claim, this  
Court has supplemental jurisdiction over that claim pursuant to 28  
U.S.C. section 1367.

5 Notice of Removal (dkt. 1) ¶ 3.<sup>2</sup>

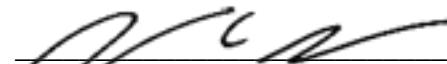
6 Absent Bryant-Jackson’s dismissed HIPAA claim, CCRMCA asserts no other basis for the  
7 Court’s original jurisdiction over this action, and no other federal questions are present on the face  
8 of Bryant-Jackson’s complaint. To the extent Bryant-Jackson’s “Civil Rights Violation” claim  
9 could constitute a federal question, even CCRMCA recognizes that this could also be a state law  
10 claim, thus rendering federal law an unnecessary element of the claim under *Rains*. 80 F.3d at  
11 347; Notice of Removal ¶ 3 (“[T]o the extent Plaintiff alleges a state law claim this Court has  
12 supplemental jurisdiction over that claim pursuant to 28 U.S.C. section 1367.”). Moreover, as the  
13 removing party, CCRMCA had the burden to demonstrate grounds for removal, and its notice of  
14 removal cites only Bryant-Jackson’s HIPAA claim as giving rise to federal jurisdiction. *See*  
15 Notice of Removal ¶ 3. CCRMCA has not met its burden to show that this Court has jurisdiction  
16 over the remaining claims, and the Court therefore remands this action *sua sponte* to state court.

17 **III. CONCLUSION**

18 For the reasons stated above, Bryant-Jackson’s HIPAA claim is DISMISSED WITH  
19 PREJUDICE, to the extent HIPAA’s lack of a private right of action constitutes an incurable  
20 defect as to that claim in federal court. Lacking jurisdiction over the remaining claims, the Court  
21 REMANDS this action *sua sponte* to the Superior Court of California for the County of Contra  
22 Costa.

23 **IT IS SO ORDERED.**

24 Dated: June 30, 2017

25   
JOSEPH C. SPERO  
Chief Magistrate Judge

27 <sup>2</sup> The Court notes that CCRMCA argues for dismissal of Plaintiff’s “Identity Theft” claim in its  
28 Motion to Dismiss, Pl. Mot. at 6 (dkt. 6), yet makes no showing of the Court’s jurisdiction over  
that claim in their Notice of Removal.